

CERTIFIED MAIL

June 4, 2007

Mr. James Brewer  
Dream Dinners, Inc.  
PO Box 889  
Snohomish, WA 98291

Dear Mr. Brewer,

The variance application received on April 5, 2007 has been reviewed, evaluated and is hereby **denied** because it violates Indiana Code 16-19-3-4.3 by not establishing a good cause. Indiana State Department of Health (ISDH) Rule, 410 IAC 7-24, Retail Food Establishment Sanitation Requirements, Section 173 requires the prevention of cross contamination of raw animal foods from other types of foods, such as ready-to-eat (RTE) foods and other foods that require a lower cooking temperature or no cooking at all. Furthermore, the variance application failed to address Section B(6), bullets 1, 2, 3 and 5 of the ISDH Variance Protocol. These areas are as follows:

- **How the proposal differs from what is common and usual in similar industry situations.** We do not agree that the customer holding mechanical cooler can be equated to a grocery cart in a supermarket. There is normally no commingling of one customer's purchases with another.
- **How the proposal may be unique in dealing with a situation not addressed in existing rules or law.** This section is addressed in law and these foods must be stored properly to prevent potential cross contamination.
- **How the proposal does not diminish the protection of public health.** Your proposal is designed around customer convenience and not protection of public health. The onsite review by our field

representative demonstrated that there were raw animal foods, both frozen and thawed, stored with and above RTE foods.

- **How implementation of the variance would be practical.** Since your proposal does not adequately identify a method for preventing these cross contamination problems then nothing has been demonstrated as being practical. The HACCP Plan document included in the application does not address the cross contamination issue as it relates to the storage practices and it is recommended that this be added as a critical control point.

In compliance with the ISDH variance protocol, your variance application was made public and eight (8) comments were received concerning your request.

You must therefore come into compliance with all requirements of Indiana State Department of Health Rule, 410 IAC 7-24, Section 173, Retail Food Establishment Sanitation Requirements, and modify your procedures to address the issue of potential cross contamination.

If Dream Dinners, Inc. wishes to seek administrative review of this Variance Denial pursuant to Ind. Code §4-21.5-3-7(a), it must file a petition for review within fifteen (15) days after this Variance denial is served. The petition for review and petition for stay of effectiveness must be postmarked no later than June 22, 2007

The petition for review and petition for stay of effectiveness must be in writing and must include facts demonstrating that:

- a. The petitioner is a person to whom the decision is specifically directed;
- b. The petitioner is aggrieved or adversely affected by the decision; or,
- c. The petitioner is entitled to review under any law.

Any petition for review and petition for stay of effectiveness should be submitted in writing to:

Indiana State Department of Health  
Attn: Lue Hilliard, 3H  
2 North Meridian Street  
Indianapolis, IN 46201-30006

Sincerely,

---

Terry Whitson, Assistant Commissioner  
Health Care Regulatory Services

Cc: Executive Board, ISDH  
Hendricks County Health Department  
Retail Staff